IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 4602 of 1995

Between:

Vanaparthy Basava Rao, S/o Laxmaiah,
R/o Ramanagudem, Buttaigudem (M),
West Godavari Dist.

..... PETITIONER

AND

1 The Secretary to Govt. of A.P.,
Tribal Welfare Dept., Secretariat,
Hyderabad.
2 Agent to the Govt. & the District Collector,
West Godavari Dist., Eluru.
3 The Special Deputy Collector,
Tribal Welfare, Eluru,
4 The Mandal Revenue Officer,
Buttaigudem (M), West Godavari Dist.
5 Pyda Singaiah, S/o Venkappa,
Buttaigudem, W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction particularly on in the nature of writ of certiorari by calling for the records relating to the order of the secretary to the Govt. (TW) (Respondent 1) vide proceedings NO. G.O.R.T. 291 so dated 16-4-94 and consequential notice issued to the petitioner by the Madnal Revenue Inspection of the land to the Govt, and quash the same by declaring the same as illegal, arbitrary and abnitio void and contrary to the provisions of the Regulation 1 to 59 and 2 to 70 apart from violation of Principle of natural justice.

Counsel for the Petitioner: MR.J.VENUGOPAL RAO

Counsel for the Respondents 1 to 4 : GP FOR SOCIAL WELFARE

The Court made the following :

O R D E R :

Heard Sri J.Venugopal Rao, learned counsel for the petitioner and the learned Government Pleader for Social Welfare for the respondents 1 to 4.

The petitioner herein, claiming to be the owner of the land in question, which is an extent of Ac. 27.86 cents having purchased the same long back and in possession thereof, seeks to assail the impugned proceedings in G.O. Rt. No. 291, dated 16.04.1994 passed by the first respondent herein.

The case of the petitioner is that at his instance on filing of application, the authorities granted a patta to him on 17.08.1981 after holding regular enquiry. Thereafter the fifth respondent filed an application for possession before the third respondent, who issued orders ejecting the petitioner from the lands. Against the same, the petitioner filed appeal on 13.10.1980 and thereupon the third respondent disposed of with a direction that the lands are different from the lands covered by sale deeds. As against the same, he preferred appeal before the second respondent and the same was allowed 27.03.1986. Thereupon, the fifth respondent filed revision before the first respondent and the same was allowed under the impugned orders dated 16.04.1994. The grievance of the petitioner is that in the said revision, he had absolutely no notice nor any opportunity is provided to him, before the matter is taken up or disposed of. Hence, the Writ Petition.

Considering the submissions made and on perusal of the record, it is seen that there is nothing on record to show that any such notice was duly served on the petitioner. When the revisional authority seeks to vary with the orders challenged, notice has to be given to the concerned party affected. Without it, it is to be held that it would be

directly in the teeth of the mandate under the principles of natural justice.

The Writ Petition is, accordingly, allowed. Impugned orders in G.O. No. 291 dated 16.04.1994 are set aside. The matter is remitted back to the first respondent for fresh disposal on merits in accordance with law after giving notice and opportunity to both sides. No costs.

(B.Prakash Rao, J.)

10.02.2005

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on

Thursday, the tenth day of February two thousand and five.

Asst. Registrar

Copy to:

1. The Secretary to Govt. of A.P., Tribal Welfare Dept., Secretariat, Hyderabad.
2. The District Collector, West Godavari Dist., Eluru.
3. The Special Deputy Collector, Tribal Welfare, Eluru,
4. The Mandal Revenue Officer, Buttaigudem (M), West Godavari Dist.
5. Two CCs to the G.P. for Social Welfare, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

6. Two CD copies.